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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/667,576	09/22/2000	Tetsufumi Tsuzaki	50212-132	7978

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WASHINGTON, DC 20005-3096

EXAMINER
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CUNNINGHAM, STEPHEN C

ART UNIT	PAPER NUMBER
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3663  
DATE MAILED: 04/09/2003

12

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/667,576	TSUZAKI ET AL.
	Examiner Stephen C. Cunningham	Art Unit 3663

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 28 January 2003.

2a) This action is FINAL. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-31 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-31 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on 22 September 2000 is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some \* c) None of:

- Certified copies of the priority documents have been received.
- Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
- Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a)  The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

1) <input type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-8, 14-21, 28, and 30 are rejected under 35 U.S.C. 102(b) as being anticipated by Onaka et al. Patent Number 5,894,362.

With respect to claims 1, Onaka et al. teach an optical amplifier and the method inherent in the apparatus comprising:

one or a plurality of optical amplification sections each which has an optical waveguide doped with a fluorescent material;

an optical pumping light source;

an optical filter capable of changing a gradient  $dL/d\lambda$  of loss L dB with respect to a wavelength  $\lambda$  nm. In a predetermined wavelength band, which inherently compensates a gradient  $dL/d\lambda$  change resulting from the optical amplification section(s); and

control means for controlling the optical pump source and adjusting the gradient  $dL/d\lambda$  of said optical filter in response to the gradient  $dL/d\lambda$  change such that the light from the amplifier has a predetermined target wavelength characteristic.

See figures 8 and 13 and column 8, lines 32-64, and column 12, lines 1-15. It is inherent that the filter must adjust a gradient  $dL/d\lambda$  in order to flatten an optical amplifier spectrum having a slope that may vary with pumping power and/or environmental conditions. There is no functional difference between adjusting the gradient of the filter for the purposes of flattening the amplifier gain spectrum and for compensating for a change in the gradient  $dL/d\lambda$  in the amplification sections so as to achieve a predetermined target wavelength characteristic, were in the target wavelength characteristic is a tilt-free, or substantially flat, gain spectrum. The change in gradient  $dL/d\lambda$  resulting from the amplification section is superposed on the amplifier gain spectrum, by compensating for the gain slope the gradient  $dL/d\lambda$  is inherently compensated.

With respect to claim 14, Onaka et al. teach an optical amplification method inherent in the apparatus comprising:

guiding the multiplexed signal light to an optical waveguide doped with a fluorescent material together with predetermined optical pumping light; guiding at least one of the multiplexed signal light before amplification and after amplification guiding the signal(s) to a filter capable of changing a gradient  $dL/d\lambda$  (loss with respect to wavelength), which inherently compensates a gradient  $dL/d\lambda$  change resulting in the optical amplification; and

adjusting an intensity of the optical pumping light to adjust light power after amplification such that light output has a predetermined target wavelength characteristic.

See figures 8 and 13 and column 8, lines 32-64, and column 12, lines 1-15. It is inherent that the filter must adjust a gradient  $dL/d\lambda$  in order to flatten an optical amplifier spectrum having a slope that may vary with pumping power and/or environmental conditions. There is no functional difference between adjusting the gradient of the filter for the purposes of flattening the amplifier gain spectrum and for compensating for a change in the gradient  $dL/d\lambda$  in the amplification sections so as to achieve a predetermined target wavelength characteristic, were in the target wavelength characteristic is a tilt-free, or substantially flat, gain spectrum. The change in gradient  $dL/d\lambda$  resulting from the amplification section is superposed on the amplifier gain spectrum, by compensating for the gain slope the gradient  $dL/d\lambda$  is inherently compensated.

With respect to claims 2 and 15, it is inherent that the filter of Onaka et al. must satisfy  $L \approx a(\lambda - \lambda_c) + b$  in order to compensate for the tilt induced by the amplifier and thus perform the function of flattening the gain spectrum as taught.

With respect to claims 3 and 16, Onaka et al. teach an optical amplifier, and the method inherent in the apparatus, comprising a gain equalizer. See figure 13. The gain equalizer also functions as the filter controlling the gradient  $dL/d\lambda$ .

With respect to claims 4 and 17, Onaka et al. teach an optical amplifier and the method inherent in the apparatus comprising a wave number monitor detecting the number of signal light components contained in the multiplexed

signal, and where the control adjusts the amplifier accordingly. See figures 8-10 and 13, and column 8, line 60 through column 10, line 2.

With respect to claims 5 and 18, Onaka et al. teach an optical amplifier and the method inherent in the apparatus comprising input light power detection means and control means that adjust the gradient  $dL/d \lambda$  of the optical filter based on the results of the light detection means. See figure 13, and column 12, lines 1-31.

With respect to claims 6 and 19, Onaka et al. teach an optical amplifier and the method inherent in the apparatus that controls the output of the amplifier, inherently controlling the gain. The control means further adjusts the gradient of the optical filter. See column 8, lines 60-64.

With respect to claims 7 and 20, Onaka et al. teach an optical amplifier and the method inherent in the apparatus further comprising detection means detecting each wavelength and power of the signal light, control means adjusts the gradient of the optical on the basis of the detected light signals including the shortest and longest wavelengths detected.

With respect to claims 8 and 21, Onaka et al. teach an optical amplifier and the method inherent in the apparatus comprising read means for reading information related to the shortest and longest wavelengths of the signal light component and determines the power deviation on the basis of the information obtained by the read means. See, for example, column 10, lines 3-39.

With respect to claims 28 and 30, Onaka et al. teach that the optical amplifier comprises one of an erbium doped fiber amplifier, a Raman amplifier, and a semiconductor optical amplifier. See column 8, lines 26-44. Please note that an EDFA, a semiconductor optical amplifier, and a Raman amplifier with multiple pump wavelengths are all known to have bandwidths greater than 20 nm.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 9-11 and 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Onaka et al. in view of Kinoshita '366.

With respect to claims 9 and 22, Onaka et al. teach an optical amplifier and the method inherent in the apparatus comprising means for detecting a noise component of the signal spectrum, but fails to teach detecting at wavelengths greater than and shorter than the signal spectrum. Kinoshita teaches an ASE detection means where the detector detects a wavelength longer than the longest signal wavelength and a wavelength shorter than the shortest signal

wavelength, see figures 10, 11B, 14, and 15, and column 11, lines 1-18, column 12, line 1 through column 13, line 6. It would have been obvious to modify the apparatus of Onaka et al. by implementing the specific ASE monitor of Kinoshita for the generic ASE monitor of Onaka et al. in order to monitor the slope of the ASE spectrum and control the amplifier to reduce the occurrence of channels being buried by ASE.

With respect to claims 10 and 23, Onaka et al. teach an optical amplifier and the method inherent in the apparatus, further comprising detection means detecting each wavelength and power of signal light component and control means that adjusts the gradient  $dL/d\lambda$ , but fails to teach but fails to teach detecting at wavelengths greater than and shorter than the signal spectrum and determining the ASE spectral tilt based on said ASE detection. Kinoshita teaches an ASE detection means where the detector detects a wavelength longer than the longest signal wavelength and a wavelength shorter than the shortest signal wavelength, see figures 10, 11B, 14, and 15, and column 11, lines 1-18, column 12, line 1 through column 13, line 6. Kinoshita also teaches determining tilt in the ASE spectrum; see column 11, lines 14-18. It would have been obvious to modify the apparatus of Onaka et al. by implementing the specific ASE monitor of Kinoshita for the generic ASE monitor of Onaka et al. because that would allow for ASE spectral monitoring which in turn protects against channels being buried by noise.

With respect to claims 11 and 24, Onaka et al. teach an amplifier and the method inherent in the apparatus comprising read means (detector array) that read information (power level) related to the shortest and longest wavelength of the signal light components and detecting ASE by determining a ratio between maximum and minimum levels near a signal channel. It would have been obvious to modify the apparatus of by detecting the signal power at the maximum power level in the channel range in order to detect the signal at the point of greatest SNR (signal to noise ratio).

3. Claims 12 and 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Onaka et al. in view of Clapp et al.

Clapp et al. describes the balance point ( $\lambda_c$ ), in the predetermined wavelength band, used to control the tilt of an optical attenuator. It would have been obvious to modify the filter as taught by Onaka et al. to be controlled by setting a balance point in the predetermined band thus providing a simple gradient control scheme.

4. Claims 13 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Onaka et al. in view of Inoue et al. article published August 1991.

Onaka teaches a dynamic optical filter, but fails to teach a specific filter design. Inoue et al. teach a optical filter that comprises:

a main optical path divided into 6 regions;

a first sub-optical path coupled to the main path in a first and third regions;  
a second sub-optical path coupled to the main path in a fourth and sixth region;

a first temperature adjusting device arranged in at least one of the second region of the main optical path and the corresponding region of the first sub-optical path; and

a second temperature adjusting device arranged in at least one of the fifth region of the main optical path and the corresponding region of the second sub-optical path. See figure 3.

It would have been obvious to modify the apparatus of Onaka et al. by substituting the tunable gain equalization filter of Inoue et al. for the generic gain equalization filter of Onaka et al. in order to reduce the accumulated tilt in a series of optical amplifiers.

5. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Onaka et al.

With respect to claim 26, Onaka et al teach an amplifier comprising a dynamic gain-flattening filter. It would have been obvious to calculate flat loss spectrum that is substantially constant and independent of wavelength in order to maintain the signal spectrum in an unaltered condition for instance when the signal spectrum is flat exiting the amplifier or when the SNR is low and any additional loss with result in the channel being buried in the ASE noise.

6. Claims 29 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Onaka et al. in view of Becker et al.

With respect to claim 29, Onaka et al. teach an optical amplifier comprising:

one or a plurality of optical amplification sections each which has an optical waveguide doped with a fluorescent material;

an optical pumping light source;

an optical filter capable of changing a gradient  $dL/d\lambda$  of loss L dB with respect to a wavelength  $\lambda$  nm. In a predetermined wavelength band that compensates a gradient  $dL/d\lambda$  change resulting from the optical amplification section; and

control means for controlling the optical pump source and for adjusting the gradient  $dL/d\lambda$  of the optical filter in response to a gradient  $dL/d\lambda$  change resulting from the amplification section such that light output from the amplifier has a target characteristic.

See figures 8 and 13 and column 8, lines 32-64, and column 12, lines 1-15. It is inherent that the filter must adjust a gradient  $dL/d\lambda$  in order to flatten an optical amplifier spectrum having a slope that may vary with pumping power and/or environmental conditions. There is no functional difference between adjusting the gradient of the filter for the purposes of flattening the amplifier gain spectrum and for compensating for a change in the gradient  $dL/d\lambda$  in the

amplification sections so as to achieve a predetermined target wavelength characteristic, were in the target wavelength characteristic is a tilt-free, or substantially flat, gain spectrum. The change in gradient  $dL/d\lambda$  resulting from the amplification section is superposed on the amplifier gain spectrum, by compensating for the gain slope the gradient  $dL/d\lambda$  is inherently compensated.

Becker et al. teach flattening an optical gain spectrum using a passive gain equalizing filter, see page 291-293. It would have been obvious to modify the apparatus of Onaka et al. by including a passive gain flattening filter in order to further flatten the gain spectrum and to reduce the complexity of the dynamic filtering needed to flatten the amplifier gain spectrum.

With respect to claim 31, Onaka et al. teaches a method of amplifying comprising:

guiding the multiplexed signal light to an optical waveguide doped with a fluorescent material together with predetermined optical pumping light;

guiding at least one of the multiplexed signal light before amplification and after amplification guiding the signal(s) to a filter capable of changing a gradient  $dL/d\lambda$  (loss with respect to wavelength), which inherently compensates a gradient  $dL/d\lambda$  change resulting in the optical amplification; and

adjusting an intensity of the optical pumping light to adjust light power after amplification such that light output has a predetermined target wavelength characteristic.

See figures 8 and 13 and column 8, lines 32-64, and column 12, lines 1-15. It is inherent that the filter must adjust a gradient  $dL/d\lambda$  in order to flatten an optical amplifier spectrum having a slope that may vary with pumping power and/or environmental conditions. There is no functional difference between adjusting the gradient of the filter for the purposes of flattening the amplifier gain spectrum and for compensating for a change in the gradient  $dL/d\lambda$  in the amplification sections so as to achieve a predetermined target wavelength characteristic, were in the target wavelength characteristic is a tilt-free, or substantially flat, gain spectrum. The change in gradient  $dL/d\lambda$  resulting from the amplification section is superposed on the amplifier gain spectrum, by compensating for the gain slope the gradient  $dL/d\lambda$  is inherently compensated.

Becker et al. teach a reducing an inherent wavelength-dependent gain in the amplification using a gain equalizing filter, see page 291-293. It would have been obvious to modify the method of Onaka et al. by reducing an inherent wavelength-dependent gain in the optical amplification in order to flatten further the gain spectrum and to reduce the complexity of the dynamic filtering needed to flatten the amplifier gain spectrum.

#### ***Response to Arguments***

The applicant has argued that the filter of the Onaka reference does not disclose or suggest the optical filter of the instant invention.

- The filter of the instant invention is not a VOA or GEQ. This limitation is not disclosed in the claims.
- The instant filter dynamically compensates the change of  $dL/d\lambda$  (gradient of loss with respect to wavelength) caused by the change of signal light level or number of signal light channels. This limitation is not claimed. Furthermore, a gain spectrum with significant slope is not considered flat. Gain flattening is considered to comprise both reduction of ripple and slope.
- The instant filter compensates for only the change in the gradient  $dL/d\lambda$  in the optical amplifier section, not depending on inherent gain spectrum of the amplifier section. Compensating for only the change in gradient is not claimed. In addition, the amplifier is claimed to be controlled such that the output has a target wavelength characteristic, which is precisely the goal of the prior art. The only measure for the gradient  $dL/d\lambda$  in the instant invention is achieved by monitoring the signal spectrum. There is no explanation as to how the gradient  $dL/d\lambda$  is determined wherein the influence of the amplifier gain spectrum is eliminated. The examiner reaffirms the assertion that there is no functional difference between compensating for the gradient  $dL/d\lambda$  and the gain slope ( $dG/d\lambda$ , gain with respect to wavelength) of the amplifier because loss is negative gain.

Claims 2-13, 15-28, and 30 stand or fall with independent claims 1, 14, 29, and 31 and therefor the rejections are maintained.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen C. Cunningham whose telephone number is 703-605-4275. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas G. Black can be reached on 703-305-8233. The fax phone numbers for the organization where this application or proceeding is assigned are 703-

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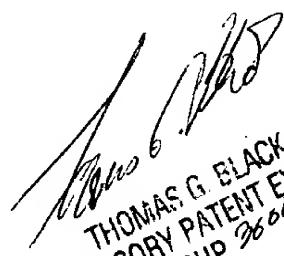
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872-9326 for regular communications and 703-872-9327 for After Final  
communications.

Any inquiry of a general nature or relating to the status of this application or  
proceeding should be directed to the receptionist whose telephone number is 703-308-  
1113.

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March 27, 2003



THOMAS G. BLACK  
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